Tax and Equality in 1972: The Case of Lodge v FCT

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This paper is part of a larger project described at http://www.law.uq.edu.au/australian-feminist-judgments-project as follows:

This project draws its inspiration from two significant recent developments in law and feminist scholarship. The first has been the emergence in Canada and the UK of feminist judgment-writing projects, in which feminist academics, lawyers and activists have written alternative judgments in a series of legal cases, imagining the different decision that might have been made by a feminist judge hearing the case. The second has been the incremental shift in recent years in the number of women judges and Magistrates presiding in courts and tribunals throughout Australia. As part of this project, a group of scholars will write alternative feminist judgments.

This paper is one of the alternative feminist judgements. The case used for this discussion is *Lodge v Federal Commissioner of Tax* [1972] HCA 49. In that case, a woman, earning income by way of commission in her occupation as a law costs clerk, which she carried out at her home, claimed to deduct from her assessable income child care fees that enabled her to devote time and attention to her work. The High Court held that no right to a deduction had arisen. It found that, although the purpose of the expenditure was for gaining assessable income, it did not take place in, or in the course of, preparing bills of cost. Further, the expenditure was of a 'private or domestic' nature. This seminal taxation decision, which prevents deductions for childcare, has broad financial ramifications for workers in the home and those with childcare responsibilities. It designates childcare duties as 'private', notwithstanding the need for these in order, particularly for women, to work in the public sphere.